

REMARKS

Claims 1-30 are currently pending in the patent application. The Examiner has rejected Claims 1-8, 13-20, 22-30 under 35 USC 102 as anticipated by Mao; has rejected Claims 9, 10 and 21 as unpatentable over Mao in view of Dureau; has rejected Claim 11 as unpatentable over Mao in view of Mankovitz; and, has rejected Claim 12 as unpatentable over Mao in view of Zigmond. For the reasons set forth below, Applicants believe that the claims are allowable over the cited art.

The present invention teaches a system, method, apparatus, and broadcast stream wherein secondary content which relates to the primary content of a broadcast stream is scheduled for cyclic delivery with the primary content. The delivery of secondary content is cyclic, as detailed on page 8 of the present Specification, which means that it is broadcast multiple times in the course of a program of commercial message (i.e., the primary content). As taught by the present invention, the secondary content is delivered as part of the initial broadcast, preferably before the primary content to which it pertains. Thereafter, for those viewers who might tune in late, the secondary content is cyclically broadcast. If a viewer has missed all cycles of

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delivery of the secondary content, the viewer may request rebroadcast of the secondary content. The delivery system may wait until a threshold number of rebroadcast requests are received before rebroadcasting the secondary content. As an alternative to rebroadcasting the secondary content, the delivery system may, in response to a single rebroadcast request, narrowcast the secondary content via a different delivery mechanism.

The Mao patent is the primary reference against the pending claims. The Mao patent is directed to sending one-way internet data over a digital broadcast TV network. Mao differs from the claimed invention in that Mao can only provide a one-way broadcast of data. Mao does not provide any return channel on which a rebroadcast request may be transmitted to the delivery system. Further, Mao does not teach or suggest cyclic delivery of secondary content, as is expressly taught and claimed, let alone scheduled cyclic delivery. Applicants further assert that the Mao patent does not teach or suggest on-demand rebroadcasting or narrowcasting of secondary data. Mao sends the data one time, one way. With regard to thresholding, Mao does not provide any teachings related to receiving rebroadcast requests, let alone waiting until a threshold number of

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rebroadcast requests have been received before sending a rebroadcast of secondary data.

It is well established under U. S. Patent Law that, for a reference to anticipate claim language under 35 USC 102, that reference must teach each and every claim feature. Since the Mao patent does not teach steps or means for obtaining secondary content related to primary content of a broadcast stream, for scheduling delivery of the secondary content in relation to the non-cyclic broadcasting of the primary content, or for cyclically delivering secondary content based on the scheduling, it cannot be maintained that the Mao patent anticipates the language of independent Claims 1, 19 and 27, which all expressly recite cyclic delivery of secondary content. Furthermore, a claims which does not anticipate the language of an independent claim cannot be said to anticipate the language of claims which depend therefrom and add limitations thereto. Accordingly, Applicants conclude that Mao does not anticipate Claims 1-23 and 27-30.

Further, since Mao does not teach or suggest retransmission after scheduled cyclic delivery, it cannot be maintained that Mao anticipates the language of Claims 2, or 20-23. With regard to the claim feature of on demand rebroadcasting/retransmission, Mao does not teach or suggest

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rebroadcasting in response to a request, and in fact teaches away from such since Mao expressly teaches only one-way broadcasting (see: e.g., the Field of the Invention). As such, Mao clearly does not anticipate or obviate the rebroadcasting/retransmission language of Claims 5-10, 18 and 26. Mao also does not teach or suggest thresholding with respect to a number of requests for retransmission of a broadcast of secondary content. Clearly, therefore, Mao does not anticipate Claim 9. Mao teaches only one-way broadcasting of data over a digital broadcast TV network. Accordingly, the Examiner cannot maintain that Mao anticipates the claim language of Claim 10 which recites responding to a viewer request by narrowcasting. With regard to independent Claim 24, the claims that depend from Claim 24, namely Claims 25-26, and Claim 29 which recites parallel language, the Mao patent does not teach sending control information in cyclic broadcasts, as is expressly claimed, as well as using the control information. Applicants request reconsideration of the anticipation rejections based on the Mao patent.

The Examiner has additionally cited Mao in rejecting Claims 9-12 and 21 as obvious. Applicants rely on the arguments presented above with regard to the teachings of the Mao patent. Applicants reiterate that Mao does not

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teach cyclic broadcasting of secondary data that Mao teaches away from the claim language related to on-demand retransmission of secondary content. It is well established under U.S. patent law that a reference which teaches away from a claim feature cannot be held to obviate the claim. Applicants further assert that the additionally cited references do not teach that which is missing from the Mao patent.

The Dureau patent is cited for teaching counting the number of viewer requests for transmitting internet data. Applicants note that Dureau is not retransmitting data, and Dureau is not cyclically transmitting secondary content which relates to primary content. While Dureau may tally the number of requests for data, it would not be logical to modify Mao with Dureau since Mao expressly teaches only one-way broadcasts, not allowing for transmission requests to be received. Moreover, even if one were to modify Mao with Dureau, one would arrive at a Mao system wherein one way broadcasting would only be undertaken when a number of requests has been obtained. The combination would not, however, obviate counting the number of rebroadcast requests received for cyclically transmitted secondary content related to previously transmitted primary content, and rebroadcasting when a threshold number of requests are

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received. Clearly, therefore, the combination would not obviate Claim 9. Further, with regard to Claims 10 and 21, the teachings from Dureau that data can be narrowcast would not logically be added to the Mao system and method. Even if such were added, since Mao only provides for one way transmission of data, Mao would not receive requests for rebroadcasting or narrowcasting of secondary content related to previously send primary content. Again, Applicants conclude that the combination of references do not obviate the claims.

The Mankovitz reference has been cited with Mao against Claim 11. Claim 11 recites displaying notification to a viewer of delivery of secondary content. While Mankovitz does display an icon the indicate receipt of data, even if one were motivated to modify Mao to include icon display, the result would not be the invention as claimed by Claim 11 since neither Mao nor Mankovitz teaches or suggests the claimed steps or means for obtaining secondary content related to primary content of a broadcast stream, for scheduling delivery of the secondary content in relation to the non-cyclic broadcasting of the primary content, or for cyclically delivering secondary content based on the scheduling in conjunction with displaying user notification data.

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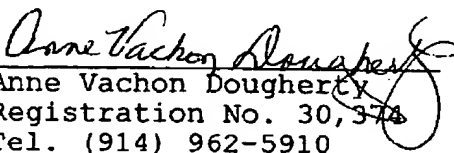
Finally, the Zigmond patent has been cited for teaching primary content as an analog television signal and information transmitted in the VBI. Applicants note that neither Mao nor Zigmond teaches or suggests steps or means for obtaining secondary content related to primary content of a broadcast stream, for scheduling delivery of the secondary content in relation to the non-cyclic broadcasting of the primary content, or for cyclically delivering secondary content based on the scheduling. Even with the VBI teachings of Zigmond added to Mao, one would not arrive at the present invention since neither teaches the cyclic broadcasting, etc.

Based on the foregoing amendments and remarks, Applicants respectfully request entry of the amendments, reconsideration of the claim language in light of the remarks, withdrawal of the rejections, and allowance of the claims.

Respectfully submitted,

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